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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KEVIN J. CONNER, YASUO ISHIHARA, and STEVE C. JOHNSON

Appeal 2015-002358
Application 11/625,764
Technology Center 3700

Before LINDA E. HORNER, JILL D. HILL, ERIC C. JESCHKE, *Administrative Patent Judges*.

HILL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Kevin J. Conner et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's final decision rejecting claims 1–11. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

BACKGROUND

Independent claims 1 and 7 are pending. Independent claim 1, reproduced below, illustrates the claimed invention, with a key disputed limitation italicized.

> 1. A cabin pressure alerting system comprising:
> a cabin altimeter configured to generate a cabin pressure value;
> an alerting device; and
> a processing device in data communication with the cabin altimeter and the alerting device, the processing device comprising:
> a first component configured to determine if there is a problem with the cabin pressure based on the generated cabin pressure value;
> a second component configured to determine rate of change of the cabin pressure;
> a third component configured to set at least one of an alert volume or an alert frequency *based on the rate of change of the cabin pressure* if it was determined by the first component that a problem exists with the cabin pressure,
> a fourth component configured to issue a cabin depressurization alert over the alerting device based on at least one of the set alert volume or alert frequency, if there is a problem with the cabin pressure value;
> wherein the second and third components repeat operations until the first component determines that there is no longer a problem with the cabin pressure,
> wherein the first component determines if a problem with the cabin pressure still exists after issuance of the cabin depressurization alert and
> wherein the third component alters at least one of the volume or frequency of the previously set alert volume or frequency, if the first component determines a problem with the cabin pressure still exists after issuance of the cabin depressurization alert.

REJECTION

Claims 1–11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Horner (US 6,737,988 B2, iss. May 18, 2004) and Yamamoto (US 2003/0081812 A1, pub. May 1, 2003). Final Act. 2.

OPINION

The Examiner finds that Horner discloses, *inter alia*, "a third component configured to set at least one of an alert volume or an alert frequency (122, col.6 ll.1-5, col.7 ll.1-9, 36-55) based on the rate of change of the cabin pressure." Final Act. 2.

Appellants argue that Horner and Yamamoto fail to teach or suggest setting an alert volume or frequency based on a determined rate of change of cabin pressure. Appeal Br. 11. According to Appellants, Horner discloses both setting a cabin pressure alert (Horner 7:1–9, 36–55) and determining a cabin pressure rate of change (Horner 6:1–5), but does not disclose setting the cabin pressure alert based on the cabin pressure rate of change. *Id.*

Horner discloses a primary cabin pressure signal (PC PRIMARY), a secondary cabin pressure signal (PC SECONDARY), and an atmospheric pressure signal (PA) that output, *inter alia*, a cabin pressure rate of change (PC RATE) to memory and a discrete output processing logic that may output a high altitude warning. Horner, Fig. 1, 6:1–20. Although Horner discloses that "the processor 112 supplies signals representative of . . . cabin pressure altitude rate of change . . . and high cabin altitude warning" (Horner 6:1–5), Horner never discloses that the high cabin altitude warning signal is based on the cabin pressure altitude rate of change signal. Indeed, Horner specifically states that the processor 112 uses "primary cabin pressure (P_c

Primary) or secondary cabin pressure (P_c Secondary), in combination with the determined atmospheric pressure (P_a), . . . to generate discrete logic signals such as a high cabin altitude warning signal." Horner 6:10–20. Thus, although Horner's processor both (1) determines cabin pressure altitude rate of change and (2) generates a high cabin altitude warning signal, Horner is silent regarding issuance of its high cabin altitude warning signal being based on the cabin pressure altitude rate of change.

The Examiner contends that Horner teaches component 112 uses the primary or secondary cabin pressure to determine cabin altitude pressure rate of change *to generate* a high cabin altitude warning signal. Ans. 6. This finding, however, is erroneous, because Horner instead teaches component 112 uses the primary or secondary cabin pressure and atmospheric pressure to independently (1) determine cabin altitude pressure rate of change and (2) generate a high cabin altitude warning signal. Horner 6:1–20.

Because this finding is in error, prima facie obviousness has not been established, and we do not sustain the rejection of claim 1 as unpatentable over Horner and Yamamoto. Claims 2–6 depend directly or indirectly from claim 1, and we do not sustain the rejection thereof for the same reason. Similar to claim 1, independent claim 7 recites "determining rate of change of the cabin pressure value," and "setting at least one of alert volume or alert frequency based on the determined rate of change." Because we disagree with the Examiner's finding that Horner discloses setting an alert volume or frequency based on cabin pressure rate of change, we do not sustain the rejection of independent claim 7 as unpatentable over Horner and Yamamoto. Claims 8–11 depend directly or indirectly from claim 7, and we do not sustain the rejection thereof for the same reason.

DECISION

We REVERSE the rejection of claims 1–11 under 35 U.S.C. § 103(a) as unpatentable over Horner and Yamamoto.

REVERSED